

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(322 St. George Road)		
15 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
Toro Services, LLC	*	HEARINGS FOR
<i>Legal Owner</i>		
	*	BALTIMORE COUNTY
Petitioner		
	*	CASE NO. 2017-0345-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed on behalf of Toro Services, LLC., the legal owner of the subject property (“Petitioner”). Petitioner is requesting variance relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R) to permit a side yard setback of 10 ft. with a sum of 20 ft. in lieu of the required 10 ft. with a sum of 25 ft. for a replacement dwelling. A site plan was marked as Petitioner’s Exhibit 1.

David Billingsley and Jose Urbina appeared in support of the petition. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Environmental Protection and Sustainability (DEPS).

The subject property is located in the Essex area of Baltimore County and is shown as a portion of Lot 257 on the plat of Middleborough, recorded in 1916. The site is approximately 10,500 square feet in size and zoned DR 3.5. The property is improved with a small single-family dwelling constructed in 1936. Petitioner proposes to raze this structure and construct in its place a modest two-story home.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

The subject property is narrow (50 ft.) and deep (210 ft.) and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to construct the proposed replacement dwelling. Finally, I find that the variances can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety and general welfare. This is demonstrated by the lack of community and/or Baltimore County opposition.

THEREFORE, IT IS ORDERED, this **22nd** day of **August, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R) to permit a side yard setback of 10 ft. with a sum of 20 ft. in lieu of the required 10 ft. with a sum of 25 ft. for a replacement dwelling, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. Petitioner must prior to the issuance of permits comply with the Chesapeake Bay Critical Area regulations.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

____Signed_____
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:sln